



RULE-MAKING ORDER

(RCW 34.05.360)

CR-103 (7/22/01)

Agency: Insurance Commissioner's Office

- ☒ Permanent Rule
☐ Emergency Rule
☐ Expedited Rule Making

(1) Date of adoption: September 5, 2001

(2) Purpose: The adopted rules revisit the subject of existing rules and provide greater focus and clarity regarding the subject of unfair discrimination based on sex in the provision of health coverage. The adopted rules include a new WAC section regarding unfair discrimination based on sex in the provision of health coverage. The area of prescription contraception is used as an example to clarify the application in that area.

Insurance Commissioner Matter No. R 2001-02

(3) Citation of existing rules affected by this order:

Repealed: WAC 284-43-821, 284-43-823, 284-43-824
Amended: None
Suspended: None

(4) Statutory authority for adoption: RCW 48.02.060, 48.18.480, 48.20.450, 48.20.460, 48.21.045, 48.30.010, 48.30.300, 48.41.110, 48.41.170, 48.42.010, 48.42.040, 48.42.100, 48.43.012, 48.43.025, 48.43.035, 48.43.041, 48.43.115, 48.43.520, 48.44.020, 48.44.023, 48.44.050, 48.44.220, 48.46.060, 48.46.066, 48.46.110, 48.46.200, 49.60.010, 49.60.030, 49.60.120, 49.60.178, 49.60.220.

Other Authority:

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR **01-15-084** on 7/18/01 (date).

All changes from proposed to adopted version are:

Subsection (1) - An example of "generally comprehensive coverage" is added.

Subsection (2)(a) "and" is changed to "and/or" in the first sentence. "medically necessary services" is changed to "medical services" in the second sentence.

Subsection (2)(f) "oral, implant, and injectable" and "intrauterine" are deleted.

Subsection (2)(g) "otherwise exempted by law" is deleted.

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- ☐ (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- ☐ (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?:

☐ Yes ☒ No If Yes, explain:

(6) Effective date of rule:

Permanent Rules

- ☒ 31 days after filing
☐ Other (specify) _____*

Emergency Rules

- ☐ Immediately
☐ Later (specify) _____

*(If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

Name (Type or Print)

Mike Kreidler

Signature

Title

Insurance Commissioner

Date

September 5, 2001

CODE REVISER USE ONLY

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	<u>1</u>	Amended	_____	Repealed	<u>3</u>
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____

NEW SECTION

WAC 284-43-822 Unfair practice relating to health coverage. (1) It is an unfair practice for any health carrier to restrict, exclude, or reduce coverage or benefits under any health plan on the basis of sex. By way of example, a health plan providing generally comprehensive coverage of prescription drugs and prescription devices restricts, excludes, or reduces coverage or benefits on the basis of sex if it fails to provide prescription contraceptive coverage that complies with this regulation.

An example of a plan that provides generally comprehensive coverage of prescription drugs is a plan that covers prescription drugs but excludes some categories such as weight reduction or smoking cessation.

(2)(a) Health plans providing generally comprehensive coverage of prescription drugs and/or prescription devices shall not exclude prescription contraceptives or cover prescription contraceptives on a less favorable basis than other covered prescription drugs and prescription devices. Coverage of prescription contraceptives includes coverage for medical services associated with the prescribing, dispensing, delivery, distribution, administration and removal of a prescription contraceptive to the same extent, and on the same terms, as other outpatient services.

(b) Health plans may not impose benefit waiting periods, limitations, or restrictions on prescription contraceptives that are not required or imposed on other covered prescription drugs and prescription devices.

(c) Health plans may require cost sharing, such as copayments or deductibles, for prescription contraceptives and for services associated with the prescribing, dispensing, delivery, distribution, administration, and removal of the prescription contraceptives, to the same extent that such cost sharing is required for other covered prescription drugs, devices or services.

(d) Health carriers may use, and health plans may limit coverage to, a closed formulary for prescription contraceptives if they otherwise use a closed formulary, but the formulary shall cover each of the types of prescription contraception as defined in (f) of this subsection.

(e) If a health plan excludes coverage for nonprescription drugs and devices except for those required by law, it may also exclude coverage for nonprescription contraceptive drugs and devices.

(f) For purposes of subsections (1) and (2) of this section, "prescription contraceptives" include United States Food and Drug Administration (FDA) approved contraceptive drugs, devices, and prescription barrier methods, including contraceptive products declared safe and effective for use as emergency contraception by the FDA.

(g) This section applies prospectively to health plans offered, issued, or renewed by a health carrier on or after January 1, 2002.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 284-43-821	Maternity and pregnancy-related exclusions, limitations and conditions in individual plans.
WAC 284-43-823	Maternity and pregnancy-related exclusions, limitations and conditions in group plans.
WAC 284-43-824	Effective date.